IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

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WRIT PETITION No.12982 OF 2006

Between:

M/s.SOL Pharmaceuticals Ltd.,
Rep. by its Chairman and Managing Director,
Mr.C.Chandrasekara Reddy.

..... PETITIONER

AND

Additional Director General of Foreign Trade
And Appellate Authority, Office of Directorate
Geeneral of Foreign Trade, Udyog Bhavan,
New Delhi and another.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.12982 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **" ... Hon'ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the order No.11/168/02-03/ECA-I dated 10.02.2006 passed by the Addl. Director General of Foreign Trade cum Appellate Authority under FTDR ACT, 1992 as arbitrary, illegal, violative of principles of natural justice and violative of petitioner's rights, guarantee under Article 14 of the Constitution of India and set aside the same and pass ..."**

The petitioner is a limited company carrying on business of manufacture and sale of Bulk Drugs and Pharmaceutical Formulations. The petitioner claims that it exports some of its products to various countries outside India and it further claims that it had so far exported goods worth Rs.500 Crores from the time of its inception.

Under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 the Government of India evolved a policy of issuing advance licences to manufacturers like the petitioner enabling them to import raw material or semi-finished goods for the purpose of further processing, and such licences are subjected to various conditions and one of the conditions being that the product manufactured out of imported material would be exported within the specified time. It appears that the petitioner had been granted seventy

four (74) advance licences, and another licence called Export Promotion Capital Licence, the details of which may not be necessary for the purpose of the present case. Suffice to state that the said licence also imposes a similar condition referred to earlier. Alleging that there was violation of the conditions of the above-mentioned 75 licences, the respondents initiated proceedings against the petitioner and came to the conclusion that the petitioner violated Section 11 of the above-mentioned Act and imposed penalties in all the 75 cases. Aggrieved by the same, the petitioner preferred 75 Appeals before the 1st respondent herein. Admittedly, out of the 75 Appeals, 69 Appeals stood allowed and the matters were remitted back to the Primary Authority for the reasons recorded in the Order passed by the Appellate Authority, the details of which we are not concerned. Unfortunately, the remaining six appeals came to be dismissed by the 1st respondent on the ground that on the date of hearing of the appeals i.e. on 02.01.2006, the petitioner did not take care to participate in the hearing, and hence the present writ petition.

The case of the petitioner is that these six Appeals were initially listed on 12.11.2002 and on that date, they were adjourned to 03.11.2005 and thereafter adjourned to 02.01.2006. It is asserted by the learned counsel for the petitioner that the practice in the Appellate proceedings is that the next date of hearing is not immediately made known to the parties, but subsequently communicated and in the instant case, the date of hearing is scheduled on 02.01.2006 which was not intimated to the petitioner.

A counter-affidavit is filed by the respondents. At page 6 of the counter-affidavit it is stated in this regard as follows:

> "... ... The contention of the firm about non-receipt of Personal Hearing notice for 2.1.06 has been examined with reference to records. It is observed that this notice had actually gone only to Dr.Bikash Ghosh, Ex-Director of the firm and as such there is no substance in the petitioner's contention that the same was not received by them."

We are only amused at the statement made by the respondents who graciously admit that the notice was served on the Ex-Director of the petitioner company and still believe that there is no substance in the petitioner's contention that the notice is not received by the company. Such is the understanding of law by the respondents. But, such an understanding cannot be given any credence in view of the settled principles of natural justice.

In the circumstances, we are of the opinion that the petitioner was denied of an opportunity of defending its case. Therefore, the order of the 1st respondent dated 10.02.2006 dismissing the appeals of the petitioner is liable to be set aside and the same is accordingly set aside.

The writ petition is allowed and the 1st respondent is directed to give a reasonable opportunity to the petitioner and dispose of the above-mentioned appeals in accordance with law, preferably within a period of four weeks from the date of receipt of a copy of this order. No costs.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

3RD AUGUST, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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(Per Sri Justice J.Chelameswar)

3RD AUGUST, 2006